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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,220	12/21/2000	Marc H. Segan	50500-120	6552
7590	03/15/2005			EXAMINER
Edward M. Weisz, Esq. Cohen, Pontani, Lieberman & Pavane Suite 1210 551 Fifth Avenue New York, NY 10176			LEZAK, ARRIENNE M	
			ART UNIT	PAPER NUMBER
			2143	
DATE MAILED: 03/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/747,220	SEGAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Arrienne M. Lezak	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-43 and 45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-43 and 45 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____ .

**DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18 January 2005 has been entered.

2. Additionally, Examiner notes that Claims 1-4, 7-12, 14-17, 19-21, 23, 25, 30, 33, 39 & 41-43 have been amended, and no claims have been cancelled or added by way of this RCE.

3. Claims 46-54 have been withdrawn by way of election/restriction; however, Applicant reserves the right to prosecute the same via a divisional application. Examiner notes that Claim 44 was not presented in the originally filed application due to a claim numbering error on the part of Applicant. It is assumed that the claims as submitted herein represent Applicant's complete invention as examined, (after election). Claims not explicitly addressed herein are found to be addressed within the prior Office Action dated 22 September 2004 as reiterated herein below.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-43 & 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chelliah in view of "Frequently Asked Questions: Basic Information about MUDs and MUDding", Jennifer Smith and Andrew Cowan, 1996-1999, in further view of US Patent US 6,476,830 B1 to Farmer.

6. Regarding Amended Claims 1, 17, 33 and 39, and Original Claims 26-28, Chelliah discloses a system and method for providing incentive for a user of said system to access content over a network (Internet – pending Claim 26), (Abstract; Col. 11, lines 4-10; Col. 15, lines 6-23; Col. 20, lines 28-33; Col. 28, lines 52-67; and Col. 29, lines 1-23), comprising:

- a user node responsive to a browser program for providing communication between a user and said network, said user node being in communication with a user interface device for depicting an animatable character icon to the user, Col. 28, lines 52-60);
- a subscriber advertiser node for providing connection of content to said user device on said network, (Col. 28, lines 52-67 and Col. 29, lines 1-23);
- a service provider server in communication with the user node and the subscriber advertiser node for communicating a command, (Col. 29, lines 3-23);
- wherein said command originates at said service provider server, (pending Claim 27), (Col. 28, lines 52-67 and Col. 29, lines 1-23); and

- wherein said step of establishing a network connection further comprises the step of establishing a disk and execution monitor (DAEMON) connection between the user interface and the service provider, (per pending Claim 28), (Col. 28, lines 52-67 and Col. 29, lines 1-23).

7. Chelliah does not specifically teach the use of animatable character icons with enhancement (and enhancement authorization) capabilities wherein the communication of a command effectuates a function on the user interface device pertaining to the character icon.

8. Smith and Cowan teach a MUD (Multiple User Dimension/Dungeon/Dialogue) which is a computer program that allows a user to take control of a computerized character capable of walking, chatting, exploring, solving puzzles and creating rooms, descriptions and items, (§ 1.1). Some MUDs require registration wherein a user must obtain a character from a MUD administrator, (§ 1.3), and others allow a user to create their own character, (§ 1.7), wherein moving and interacting with other characters is done through common commands, (§ 1.14).

9. To combine the MUD environment and functionalities with the Chelliah computer system and method for electronic commerce would have been obvious to one of ordinary skill in the art at the time of invention by Applicant. The motivation to combine, found within Chelliah, is the need to accommodate marketing activities necessary for customer generation within the e-commerce environment, (Col. 1, lines 63-67 and Col. 2, lines 1-3). Examiner notes that within some interactive Internet MUD environments, users are rewarded with "electronic monies" which allow users to purchase items,

powers, etc. As a MUD environment allows for commercial functionalities, the incorporation of MUD characters into a system, (like Chelliah), which already teaches marketing-need-based e-commerce incentive programs, (coupon-based, frequent buyer, quantity discount and in-store), would have been obvious and as such is unpatentable.

10. Farmer teaches virtual communities wherein individuals are represented by avatar (GUI) objects capable of possession, emotion and animation, (Figs. 1-12; Col. 2, lines 13-67; Cols. 3-5; & Claims 1-25), and wherein said avatar is capable of virtual commerce, (Col. 3, lines 23-59), and interactive communication with other avatars, (Col. 2, line 31), or (Internet) service providers, (Col. 2, lines 53-61). To incorporate the Avatar virtual community into the Chelliah computer system with the MUD functionalities would have been obvious as well, as motivated by Farmer which notes a need to move away from text only communications, (Col. 1, lines 33-34), to enhance the commerce-centric community building process, (Col. 1, lines 44-52), promoting interesting activities and new dimensions of communication that surround trade in a virtual world, (Col. 2, lines 5-9 & Col. 4, lines 55-59). Additionally, Examiner point out that (Multi-user-dungeon Object Oriented societies – “MOO”), were created in 1990. Thus, Amended Claims 1, 17, 33 and 39, and Original Claims 26-28 are found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

11. Regarding Amended Claim 2, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. As noted above, Chelliah teaches a service provider capable of providing incentive program objects, however, Chelliah does not

incorporate interactive character icons into the system. Smith/Cowan teaches a MUD-based character and Farmer teaches a virtual community comprising animatable characters whose incorporation into the Chelliah system and method would have been obvious as noted herein above. Thus, Amended Claim 2 is found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

12. Regarding Amended Claims 3, 4, 21, 23, 42 & 43, and Original Claims 22, 24 & 45, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. As noted above, Chelliah teaches a service provider capable of providing incentive program objects, however, Chelliah does not incorporate interactive character icon enhancements (audio/visual - animation and broadcast sound) into the system wherein the enhancement is determined by function activation. Smith/Cowan teach a MUD-based character, with interactive audio/visual enhancement capabilities, and Farmer teaches a virtual community comprising animatable characters, whose incorporation into the Chelliah system and method would have been obvious as noted herein above. Thus, Amended Claims 3, 4, 21, 23, 42 & 43, and Original Claims 22, 24 & 45 are found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

13. Regarding Original Claim 5 and Amended Claims 25 & 41, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. Chelliah further teaches a plurality of subscriber advertiser nodes, (Col. 31, lines 15-20). Thus, Original Claim 5 and Amended Claims 25 & 41 are found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

14. Regarding Original Claim 6 and Amended Claims 7 & 8, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. As noted above, Chelliah teaches a service provider capable of providing incentive program objects from a database, (obviously located at the service provider or at the subscriber advertiser), however, Chelliah does not incorporate interactive character icon (and icon enhancements) into the system. Smith/Cowan teaches a MUD-based character, with interactive audio/visual enhancement capabilities, and Farmer teaches a virtual community comprising animatable characters whose incorporation into the Chelliah system and method would have been obvious as noted herein above. Thus, Original Claim 6 and Amended Claims 7 & 8 are found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

15. Regarding Amended Claims 9 & 10, and Original Claims 29, 34 & 38, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. As noted above, Chelliah teaches a service provider capable of providing incentive program objects from a database, however, Chelliah does not incorporate interactive character icon (and icon enhancements) into the system, wherein icon enhancement comprises a code represented by a visible icon or discoverable upon performance of an action. Smith/Cowan teaches a MUD-based character, with interactive audio/visual enhancement capabilities, and Farmer teaches a virtual community comprising animatable characters whose incorporation into the Chelliah system and method would have been obvious as noted herein above. Thus, Amended Claims 9 & 10, and

Original Claims 29, 34 & 38 are found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

16. Regarding Amended Claims 11, 12 & 30 and Original Claim 35, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. As noted above, Chelliah teaches a service provider capable of providing incentive program objects from a database, however, Chelliah does not incorporate interactive character icon (and icon enhancements) into the system, wherein icon enhancement authorization comprises satisfying a condition. Smith/Cowan teaches a MUD-based character, with interactive audio/visual enhancement capabilities, and Farmer teaches a virtual community comprising animatable characters whose incorporation into the Chelliah system and method would have been obvious as noted herein above. Thus, Amended Claims 11, 12 & 30 and Original Claim 35 are found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

17. Regarding Claims 13, 31, 36 and 40, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. As noted above, Chelliah teaches a service provider capable of providing incentive program objects from a database, however, Chelliah does not incorporate interactive character icon (and icon enhancements) into the system, wherein icon enhancement authorization comprises satisfying a condition by selecting and entering a correct response to a subscriber advertiser query. Smith/Cowan teaches a MUD-based character, with interactive audio/visual enhancement capabilities, and Farmer teaches a virtual community comprising animatable characters whose incorporation into the Chelliah system and

method would have been obvious as noted herein above. Thus, Claims 13, 31, 36 and 40 are found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

18. Regarding Amended Claim 14, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. As noted above, Chelliah teaches a customer information database, (Abstract), however, Chelliah does not incorporate interactive character icon (and icon enhancements) into the system, wherein said character icon and related content represent certain interests and information of the user.

Smith/Cowan teaches a MUD-based character, with interactive audio/visual enhancement capabilities, and Farmer teaches a virtual community comprising animatable characters whose incorporation into the Chelliah system and method would have been obvious as noted herein above. Thus, Amended Claim 14 is found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

19. Regarding Amended Claims 15 & 16, and Original Claims 32 & 37, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. Chelliah further teaches a plurality of subscriber advertiser nodes, (Col. 31, lines 15-20), wherein the routing of a browser program to a second subscriber advertiser upon access of the character icon enhancement authorization, (as noted above) would have been obvious. Thus, Amended Claims 15 & 16, and Original Claims 32 & 37 are found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

20. Regarding Claim 18, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. Chelliah further teaches the providing of data wherein

the user registers with the service provider operating the service provider server for providing user preference information to the service provider, (Abstract). Thus, Claim 18 is found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

21. Regarding Amended Claim 19, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. As noted above, Chelliah teaches a service provider capable of providing incentive program objects from a database, however, Chelliah does not incorporate interactive character icon (and icon enhancements) into the system, wherein icon enhancement comprises accessing a corresponding code. Smith/Cowan teaches a MUD-based character, with interactive audio/visual enhancement capabilities, and Farmer teaches a virtual community comprising animatable characters whose incorporation into the Chelliah system and method would have been obvious as noted herein above. Thus, Amended Claim 19 is found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

22. Regarding Amended Claim 20, Chelliah, Smith/Cowan & Farmer are relied upon for those teachings enumerated herein. As noted above, Chelliah teaches an interactive system and method for electronic commerce with a service provider capable of providing incentive program objects from a database, however, Chelliah does not incorporate interactive character icon (and icon enhancements) into the system, wherein icon enhancement comprises determining whether a character icon is authorized to access a corresponding enhancement code. Smith/Cowan teaches a MUD-based character, with interactive audio/visual enhancement capabilities, and

Farmer teaches a virtual community comprising animatable characters whose incorporation into the Chelliah system and method would have been obvious as noted herein above. Thus, Amended Claim 20 is found to be unpatentable over the combined teachings of Chelliah, Smith/Cowan & Farmer.

### ***Response to Arguments***

23. Applicant's arguments filed 18 January 2005, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

24. In response to Applicant's argument that the references fail to show separate and distinct user/service provider and user/content provider connections, Chilliah discloses customer interaction through an electronic storefront connected to a network connected to 1+ service provider(s), (Fig. 1 & Col. 6, lines 5-57). Further, Examiner notes that the electronic storefront content/service server connects to other external content/service servers as needed. Thus, the user is obviously connected to both servers in the course of a given transaction, even if the connection passes through one server to another.

25. In response to Applicant's argument that Smith/Cowan does not teach the use of "electronic monies & character icons", Examiner notes that MUDs & MOOs are well-known in the art to maintain computerized avatar/characters capable of a multitude of

interactions including, (but not limited to), exploring, chatting, solving puzzles, (which puzzles would obviously include incentive and reward means) and business interactions, (which business interactions would obviously include the exchange of monetary means for purposes of trade and purchase as needed), as additionally exemplified by the teachings of Farmer.

26. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., audio/visual enhancements) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). That noted, Examiner finds that the additional teachings of Farmer clearly and obviously encompass Applicant's claim language, as amended. Specifically, Examiner notes that the combined teachings of Chelliah, Smith/Cowan and Farmer clearly read upon the additional limitation of "animatable", as noted herein.

27. In response to Applicant's prior argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as noted above, the motivation is found within Chelliah. The fact that Applicant has recognized another

advantage that would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

28. Thus, as Examiner has completely addressed Applicant's amendment, and finding Applicant's arguments do not show how the amendment claim language avoids such references or objections, Examiner hereby maintains the rejection of all claims, (original and amended) in their entirety.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent 5,880,731 to Liles;

US Patent 5,907,328 to Brush II;

US Patent 5,884,029 to Brush II;

US 6,433,784 B1 to Merrick; and

"Write Design Outline: MUDs and MOOs Resources", Jones and Darling Internet article.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak  
Examiner  
Art Unit 2143

AML



BUNJOB JAROENCHONWANIT  
PRIMARY EXAMINER